

1886-058 Chancery Causes: Exrs of Martin Sims for &c vs. Larkin Collins
Lee Co.

Mullins, Ewing

CA-Debt
T-Property

To the Honorable John A. Kelly Judge of the Circuit
Court of Lee County Virginia.

Humily complaining your orators Martin Sims &
J. D. Sims Executors of Martin Sims deceased, who
sue for the benefit of John Mullins, would respectfully
show your honor that heretofore, to wit. on the 19th
day of May 1885, your orators ^{obtained} before H. C. Jaslyn a
Justice of the Peace in and for said County, a judgment
against Larkin Collins & Pascal Collins for the sum
of \$22.21 with interest thereon from the 17th day of
June 1884, till paid, and \$1.50 costs, on which said
judgment an execution was duly issued by said
Justice of the Peace, directed to S. H. Bolen Constable
of said County to be executed, and was on the 8th
day of June 1885, returned by said Constable with the
following return endorsed thereon, to wit. "To property
found, S. H. Bolen, C. L. C." * Now your orators further
state that the said Pascal Collins is dead, and that
the said Larkin Collins is seized and possessed in fee
simple of a moiety of a tract of land lying and being
in Lee County Va, on the South side of Powell Mountain
adjoining the lands of

and containing 125 acres more
or less; said tract of land being owned jointly by
the said Larkin & Pascal Collins and undivided,
and that they are advised that their said judgment,
no part of which has been paid, is a lien, under the
Statute in the said real estate; that the rents and
profits of the said ^{moiety of said} real estate will not satisfy the said

A copy of said judgment is herewith filed marked "A" as part
hereof, and a copy of said Execution & the return thereon is
herewith filed as part hereof marked "B".

Judgment in five years. — In tender consideration
whereof, forasmuch as your orators are remediless
in the premises save by the aid of a court of equity,
where matters of this kind are alone and properly cog-
nizable. Your orators pray that the said Larkin Collins
^{who is a resident of this State}
be made the party defendant to this bill and required
to answer the same on oath; that the said Larkin's
be attached by process of foreign attachment and that
interest in the said real estate, ~~or~~ so much thereof
as may be necessary be sold to satisfy your orators;
^{that an order of publication be made against the said def't}
Judgment, and that your honor will grant unto your
orators such further and general relief as may be
consistent with equity and the case requires.
May Spa issue &c.

Richmond & Orr, P.S.

C. 7.20
 Co. 60
 S. 50
 Dr. 5.00
 + 15.00
 Estimate \$28.80
 6.00

Add for 87 to Jan'y 1886

\$35.17

Debit 25.71

Com' 3.04

\$3.72

C. 9.99

A. 15.00

lao Clk. 60

S. 50

Dr. 5.00

\$31.09

35.17

21.07

\$4.08

\$1.25

\$5.83

M. Simist J. D. Sims Exp
 &c for &c.

vs 3 Bill in Chancery.

Larkin Collins.

1885. July Bill filed O. Paul.

Spa not exd attack
 ment lived & cont d

u Aug. O. P. Completed &

Cause Set for Hearing

u Aug. Term Secured cont'd

1886 March Term

Secrecy final

B. Smith & Co.

M. Simms & J. D. Simms for John Mullins, Plffs
against
Larkin Collins Defs } In chg

This cause came on again to be heard upon the papers formerly read in the cause, and the report of James W. Orr Commissioner, of the sale of the defendants interest in the tract of land in the bill mentioned, and was argued by counsel, and said report, ^{having been filed the time required by law} being accepted to is confirmed, and it appearing from said report that the plaintiff, John Mullins, is the purchaser of said land, at the amount of his debt & the costs of this suit, it is adjudged, ordered & decreed that Commissioner Orr pay out the costs in his hands to the parties entitled thereto, and that he deliver to said plaintiff, Mullins, his bond for the residue of the purchase money for said land after the payment of costs & commissions on sale, and said Commissioner will convey to said Mullins, with covenants of special warranty, the defendants interest in the land in the bill mentioned, and report his action to this court, and the cause is continued.

M. Sims & J. D. Sims for &c

vs { Decree No 2.

Larkin Collins

Entered J. 492

J. R. Gibson D.C.,

Enter this Decree

J. A. K.

Mar 25 1886.

M. Sims & J. D. Sims for John Mullins Plff

against

Larkins Collins

Defd

In Chancery

The order of Continuance entered in this cause on the day of this term is ^{retraced} & thereupon

This cause came on again this day to be further heard upon the papers formerly read in the cause and the report of James W. Orr commissioner, ^{this day filed in the cause} and the deed therein of said commissioner to the plaintiff John Mullins for the defendants interest in the tract of land in the bill mentioned, and was argued by counsel. On consideration whereof said report and deed is ^{confirmed} and said plaintiff will pay to said commissioner \$5.00 for executing said deed, and the plaintiff Mullins has leave to withdraw said deed from the papers of this cause for recordation, and nothing further remaining to be done in this cause the same is stricken from the docket.

Mr J. D. Sims for &c

or Decree Final

Larkin Collins

Entered page 514.

J. A. G. Hyatt &c.

Enter this decree

March 30th 1886.
J. A. G.

M. & J. D. Sims Exors &c for John Mullins Plffs
against-
Larkin Collins Deft } In Chancery

This cause came on this day to be heard upon the bill and exhibits therewith, and the order of publication duly made posted and published as the law directs, ^{and was argued by counsel,} and the defendant failing to appear and plead or answer the bill is taken for confessed against him. On consideration whereof it is adjudged, ordered and decreed that the plaintiffs recover against the defendant \$23.71 with legal interest thereon \$22.21 part thereof, from the 17th day of June 1884, until paid and the costs of this suit, and unless the same is paid within 30 days from the rising of this court, then James W Orr, who is hereby appointed a special commissioner for the purpose, will proceed at the front door of the Court house of this county, on same court day, to sell to the highest bidder, on a credit of six & twelve months, the defendant's interest in the tract of land in the bill mentioned, or so much thereof as may be necessary to satisfy this decree, except a sum sufficient to pay the costs of this suit and expense of sale which will be required to be paid down, and for the residue lands with good security will be required of the purchaser. ^{bearing interest from date} Before making said sale said commissioner will advertise

the time, terms and place of sale for at least 30 days at the front door of the Court house of this county and in the vicinity of said land, and will execute bond before the Clerk of this Court in the penalty of \$100.00 Constitutionally to account for and pay over any and all money received by him under this decree as ordered by the Court, and will report his action to a future term of this Court. & the Cause is Continued.

M. & L. Sims Exors. for
de

vs. George

John Collins.

Entered D. 458

J. R. Gibson D. L.

Enter this

B. 24X.

Aug 27/85

Virginia, Lee county, to wit.

This day Samuel H. Ewing personally appeared before me and made oath that Parkin Collins is a nonresident of the State of Virginia, as he is informed and believes. Given under my hand this 6th day of July 1885.

J. A. Hyatt c - c

M. & J. D. Sims Enforce
vs $\frac{1}{3}$ Affidavit
Larkin Collins

M. Sims & J. D. Sims for John Mullins Plff
against
Garfin Collins Deft } In Chancery

The undersigned Commissioner in this Cause respectfully reports, that he has made and executed the deed as commissioner in the Cause to ^{plaintiff} John Mullins, the purchaser of the land sold by him, which deed is herewith filed marked "A" for confirmation, and your Commissioner has disbursed the costs pursuant to the order of the Court, except the sum of \$ which remains of the estimated costs, and which your Commissioner will apply to the payment of his fee against plaintiff Mullins for making said deed. This cause when said deed is confirmed might be stricken from the docket. Respectfully submitted.
Nov. 29th 1886. James W Orr Comr.

M + J. D. Sims for &c

vs { Report of Deed

Larkin Collins.

Filed March 30th 1886.

M. Sims & J. D. Sims Exors &c for &c Plffs
against-
Larkin Collins Deft } In chg.

The undersigned Commissioner in this cause respectfully reports, that having posted the notices required by the decree rendered in this cause at the August term 1885, he offered for sale, at the January term 1886, of the County Court of Lee County, at the front door of the Court house of said County, and on the first day of the said term of said Court the defendants interest in the tract of land in the proceedings in said cause mentioned, on the terms mentioned in said decree, and the beneficiary plaintiff John Mullins being the highest & only bidder, became the purchaser of said interest at the price of Sixty three & $\frac{72}{100}$ dollars. The said purchaser thereupon paid to your Commissioner \$38.21, the costs of suit and commissions on sale, and for the residue of \$25.71 he executed to your Commissioner his bond with Selling se-
curity to be paid in two equal installments in six & twelve months, bearing interest from date. The interest sold by your Commissioner is one moiety of a tract of 125 acres more or less, described in the Cause, and Your Commissioner recommends a Confirmation

of the sale, as the land is Mountain land and
has probably brought its worth. And the
purchaser being the owner of the debt and
an, and having paid the amount of his debt
interest & costs, if the sale is confirmed, will
be entitled to his bond executed to your Honor
& a deed for the land & the cause might then
be stricken from the docket. Respectfully Submitted,
James W Orr, Counsel.
To Hon'ble Jno A. Kelly, Judge of Court.

Mr J. D. Davis Esq for ve

033 Court's Report of Sale

Wm. Ballou.

Filed Nov 17th 1886.

J. A. H. H. H. H.

VIRGINIA, Lee County....To Wit

To Samuel Baler Constable of Said County:

I HEREBY COMMAND YOU TO SUMMON Larkin Collins & Pascal Ballins it to be found in your District to appear at H. C. Joslyn's office in said County, on the 19th day of May 1885 before me or such other Justice of said County as may then be there to try this Warrant: to answer the complaint of Martin Sims & John D. Sims Executors of the last will & testament of Martin Sims dead and upon a claim for money not exceeding \$100 00, exclusive of interest, to wit: for the sum of \$22 ²¹/₁₀₀ due by note. And then and there make return of this Warrant Given under my hand, the 19th day of May 1885 J. P.

M. & J. D. Sims for John Bullins } On the 19th day of May 1885.
AGAINST } In Debt
Larkin & Pascal Ballins } At Jonesville in sai County.

JUDGMENT. That the Plaintiff recover of the Defeodant, \$ 22 ²¹/₁₀₀ with interest thereon from the 17th day of June 18 84 till paid : and \$ / 50 for costs
H. C. Joslyn J. P.

VIRGINIA, Lee County—To wit:—To S. H. Baler Constable of said County
I command you, in the name of the Commonwealth of Virginia, that of the goods and chattles of Larkin & Pascal Ballins

in your county, you cause to be made the sum of \$ 22 ²¹/₁₀₀ with interest thereon from the 17th day of June 18 84, till paid: which M. & J. D. Sims Executors &c has recovered before me in a warrant in debt and also the sum of \$ / 50 which were adjudged to the said M. & J. D. Sims Executors &c for costs in prosecuting said warrant. Given under my hand the 19th day of May 1885.
H. C. Joslyn J. P.

reference for the benefit of John Bullins

Sims + Sims Exors &c.

vs { Warrant

Collins + Collins

Executed May 15 11

1888

S H Bolon & G L

To property found.

June 8th 1888

S H Bolon & G L

Filed & Docketed

June 8th 1888

J. B. Gibson clks

"A" + "B"

This case filed etc has been paid me by John Mullins.
June 8th 1888
S H Bolon & G L

Know all men by these presents that
we James W. Orr and
are held and firmly bound unto
the Commonwealth of Virginia in the sum
of One Hundred (100) Dollars, for the true
payment thereof well and promptly to be
made to the said Commonwealth, we
each bind ourselves heirs &c, and we as
to this bond hereby waive our Homestead
exemptions, witness our hands and seals
this the day of 1886,

The condition of the above obligation is
such that whereas the above named
James W. Orr was by a decree rendered
at the Aug. Term 1885. of Lee Circuit Court
in the Chancery Cause of M. Sims vs J. D. Sims
Esq & vs Larkin Collins, directed to
sell certain lands mentioned in said cause.

Now should the said Orr. as a court, faithfully
perform the duties assigned him, and truly
account for and pay over any and all
money received by him under said decree
as ordered by the court, then this obligation
to be void otherwise to remain in full
force and virtue.

James W. Orr. *Seal*
Charles A. Russell *Seal*

Mt J D Sims & Co
Cours
do Bond
Larkin Collins

Filed - Jan'y 1886

J. A. Hyatt & Co

Virginia

At Rules

Held In the Clerk's office of the Circuit
Court for Lee County July 6th 1885.

M. & J. D. Sims Exrs to Defts

vs

Larkin Collins Deft

In Chancery

The object of this suit is to sell so much of the land in bill mentioned, as will be necessary to pay the Judgment interest and costs mentioned in said bill, which has been attached for the purpose - and it appearing from an affidavit filed in this cause that the defendant Larkin Collins is a non resident of this State: It is therefore ordered that the said Deft, Larkin Collins appear here within one month after due publication of this order, and do what may be necessary to protect his interest in this suit.

A Copy Teste J. A. S. Hyatt c c

D. & Orr. P. Q.

M. H. D. Sims Exr's for &c
vs $\frac{1}{2}$ Order Pub.
Larkin Collins

I certify that I
delivered an office
Copy of this order to
Lee Co. Law for Pub. &
posted a like copy
on the front door of
Lee C. H. at the
July Term Co Court.

J. A. Hyatt C.

The Commonwealth of Virginia,

To the Sheriff of Lee County--Greeting:

WE COMMAND YOU to summon

Larkin Ballins

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House, on the first Monday in *July* next, being Rule Day, to answer a Bill in Chancery exhibited in our Court against *him*, by

W. H. D. Sims Exrs. of the last will & testament of Martin Sims dead, who sue for the benefit of John Mullins

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said Court, at the Court House, this *19* day of *June*, 188*0*, in the 10 year of the Commonwealth.

J. A. G. Hyatt, Clerk.

A Copy---Teste:

The proper affidavit having been made, it is ordered that the officer bearing the within process do attach the estate of the defendant in this State, and the same in his hands so attached, as to secure and provide that the same may be forthcoming and liable to the future order of the Court.

J. B. Hyatt C. C.

(R. & C.)

M. H. D. Sims Executor to
vs ³ Spain Chas
Larkin Collins

To July Rules 1883.

I have not served the within process on the defendant because he is a nonresident of the State of Va. but I have executed the order of attachment hereon endorsed by leaving the same on the deft's interest in a tract of land in Lee Co Va on the South Side of Powell Mountain containing 125 acres more or less, purchased by deft. Pascal Collins from Martin Sims. Deft's interest being one half of said tract.

J. H. Ewing & S.

25-
30
18.
25
60.
15-
18

10
100.

150 Tax

4.71

15.00

.50

5.00

\$ 25.21

to

by

for

The Commonwealth of Virginia,

To the Sheriff of Lee County--Greeting:

WE COMMAND YOU to summon

Larkin Collins

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House, on the first Monday in

July next, being Rule Day, to answer a Bill in Chancery exhibited in our Court against
him, by *M^{rs} J. D. Sims Exro. of the last*
will + testament of Martin Sims deceased,
who sues for the benefit of John Mullins

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said Court, at the Court House,
this *19* day of *June*, 188*5*, in the 10*7* year of the Commonwealth.

J. A. G. Hyatt, Clerk.

A Copy---Teste:

J. A. G. Hyatt

The proper affidavit having been made, It is ordered
that the officer serving the within process do attach
the estate of the defendant in this State, and the same
in his hands so attached so to secure and provide that
the same may be forthcoming and liable to the future
order of the Court.

J. H. Hyatt C C

For
Darius Collins

Publisher's Certificate.

I, A. M. Goins, JONESVILLE, VA., Aug 1st, 1885, Publisher of the LEE COUNTY SUN, a weekly newspaper published at Jonesville, Lee County, Virginia, do certify that the annexed Chancery Order was published four successive weeks in said newspaper, publication ending July 31st, 1885. A. M. Goins, Publisher.

VIRGINIA:—At rules held in the clerk's office of the circuit court for Lee county. July 6th. 1885.

M. & J. D. Sims Exrs &c., Plffs.

versus

Larkin Collins, Deft.

IN CHANCERY.

The object of this suit is to sell so much of the land in bill mentioned, as will be necessary to pay the judgment, interest and costs mentioned in said bill, which has been attached for the purpose. And it appearing from an affidavit filed in this cause that the defendant Larkin Collins is a non resident of this State, it is therefore ordered that the said defendant. Larkin Collins appear here within one month after due publication of this order, and do what may be necessary to protect his interest in this suit. A copy teste,

J. A. G. Hyatt, C.C.

R. & Orr, P. Q.

Pub. Fee \$5.00

M. & J. D. Sims Exrs
vs Order Pub
Larkin Collins

Pro. fee \$5.00

Public's Certificate

1881

ATTEST

Notary Public for the State of New York

1881